UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:
Melena Bullard Mcneil

Case No. 10-80005
Chapter 13

Soc. Sec. No. xxx-xx-9797
Mailing Address:411 Mount Zion Church Road, Maxton, NC 28364-

Debtor

MOTION TO MODIFY PLAN

NOW COMES the Debtor, by and through counsel undersigned, who moves, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtor shows unto this Court the following:

1. This case was filed on January 4, 2010, with the Chapter 13 plan being subsequently confirmed on May 27, 2010.

2. The Debtor proposes to modify the Chapter 13 plan in this case in the following respects:

   From: $2,118.00 per month

   To: $2,118.00 per month through December, 2010, followed thereafter by $2,043.00 per month, starting in February 2011.

3. In addition, the Debtor requests a "waiver" to move her Chapter 13 plan payment delinquency to the end of the Chapter 13 plan for payment. As a condition of receiving these waivers, the Debtor agrees that, should any subsequent payments be more than thirty (30) days delinquent within the twelve (12) months following the entry of this Order, that the Debtor's case may be dismissed without further hearing by the Court. The Debtor agrees that any Order allowing such waivers shall not be *res judicata* as to timely Motions for Relief filed by secured creditors in this case.

4. The changed circumstances that justify the proposed modification are as follows:

   a. The debtor continues to be unemployed as has not been able to find steady employment.
   b. The debtor's spouse's income suffered an injury at work and was put on light duty for a number of months, which caused the debtor to get behind with her plan payments. The debtor's spouse has since returned to work, but his monthly income has decreased by approximately $179.00 per month.
   c. The debtor's children need additional clothing for the winter months, and the debtor's

10 year old daughter is in need of glasses.

5. An Amended Schedule I for the Debtor is attached hereto and is incorporated hereto by reference.

6. An Amended Schedule J for the Debtor is attached hereto and is incorporated by reference.

7. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

Appended Application for an Additional Attorney Fee

8. Counsel for the Debtor further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of $250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, including, without limitation, the following:

   a. Calls from and to the Debtor to discuss changes in her situation which necessitate this motion, to explain the procedures and requirements involved, and to advise the Debtor accordingly; and
   b. Contact with the Trustee's office concerning the proposed modification; and
   c. Re-evaluating and recalculating the Chapter 13 plan in this case; and
   d. Drafting this Motion and Certificate of Service; and
   e. Service of the Motion on all interested parties, which includes all creditors scheduled in this case, at the expense of the undersigned law firm; and
   f. Filing of the Motion; and
   g. Prospective attendance with Debtor at the hearing upon the motion, if any; and
   h. Prospective drafting and filing of the proposed Order and Deputy Clerk's Certificate of Service; and
   i. Prospective follow-up instructions to client, as will be necessary, following the granting of this motion.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtor.

WHEREFORE, the Debtor prays that this Court grant her Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of $250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: December 29, 2010

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury Hicks

Koury Hicks
North Carolina State Bar No.: 36204

6616-203 Six Forks Road
Raleigh, N.C. 27615
(919) 847-9750

CERTIFICATE OF SERVICE

I, Renee Nolte, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on December 30, 2010 , I served copies of the foregoing **MOTION TO MODIFY PLAN** by regular first-class U.S. mail or by electronic servicing, when available addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee
P.O. Box 3613
Durham, N.C. 27702-3613

Michael West
U.S. Bankruptcy Administrator
P.O. Box 1828
Greensboro, N.C. 27402-1828

Melena Bullard Mcneil
411 Mount Zion Church Road,
Maxton, NC 28364-

All creditors with duly filed claims as listed on the Trustee's website.

/s Renee Nolte

Renee Nolte

CH. 13 PLAN - DEBTS SHEET

(MIDDLE DISTRICT - STEP PLAN)

Date:	12/15/10
Lastname-SS#:	McNeil-9797 MTM

RETAIN COLLATERAL & PAY DIRECT OUTSIDE PLAN

	Creditor Name	Sch D #	Description of Collateral
Retain			

SURRENDER COLLATERAL

Creditor Name	Description of Collateral

ARREARAGE CLAIMS ON RETAINED COLLATERAL

	Creditor Name	Sch D #	Arrearage Amount
Retain			
	Lumbee Guaranty Bank		$1,603
			$1,686

REJECTED EXECUTORY CONTRACTS/LEASES

Creditor Name	Description of Collateral

LTD - DOT on PRINCIPAL RESIDENCE / OTHER REAL PROPERTY

	Creditor Name	Sch D #	Mortgage Payment	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Retain	Lumbee Guaranty Bank		$488	n/a	n/a	$488	
				n/a	n/a		
				n/a	n/a		

STD - SECURED DEBTS (Retain Collateral & Pay FMV Of Collateral)

	Creditor Name	Sch D #	FMV	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Retain				7.00			
				7.00			
				7.00			
				7.00			

STD - SECURED DEBTS & 910 CLAIMS (Pay 100%)

	Creditor Name	Sch D #	Payoff Amount	Int. Rate	Adequate Protection	Minimum Equal Payment	Description of Collateral
Retain	Wells Fargo		$46,449	16.25	$464	$1,250	07 Chevy
	WS Badcock Corp		$2,069	5.25	$21	$45	Consumer Goods
				7.00			
				7.00			
				7.00			

ATTORNEY FEES (Unpaid Part)		Amount
Law Offices of John T. Orcutt, P.C.		$956
SECURED TAXES		**Secured Amount**
IRS Tax Liens		
Real Property Taxes on Retained Realty		$911
UNSECURED PRIORITY DEBTS		**Amount**
IRS Taxes		$2,054
State Taxes		
Personal Property Taxes		$314
Alimony or Child Support Arrearage		
COSIGN PROTECT (Pay 100%)	**Int.%**	**Payoff Amount**
All 'Co-Sign Protect Debts (See***)		
GENERAL NON-PRIORITY UNSECURED		**Amount to Pay**
DMI = None($0)		

PROPOSED CHAPTER 13 PLAN

$ 2043 /month for 52 months, then

$ N/A /month for N/A months.**

Definitions

Sch D # = The number of the secued debt as listed on Schedule D.

Adequate Protection = Required monthly 'Adequate Protection' payment.

* = Minimum of DMI x ACP, minus all co-sign protect debt.

** = Plan duration is subject to "Duration of Chapter 13 Plan" provision.

*** Co-sign protect on all debts so designated on filed schedules D, E and F.

Final_MD_Step (rev. 11/6/07) © Copyright by John T. Orcutt

Other Miscellaneous Provisions

B6I (Official Form 6I) (12/07)

In re **Melena Bullard McNeil** Case No. **10-80005**

Debtor(s)

SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
	RELATIONSHIP(S):	AGE(S):
Married	**Daughter**	**10**
	Daughter	**5**
	Son	**5**

Employment:	DEBTOR	SPOUSE
Occupation		**Truck Driver**
Name of Employer	**Unemployed Since June 2009**	**Mountaire Farms**
How long employed		**5 Years**
Address of Employer		**PO Box 339** **Lumber Bridge, NC 28357**

INCOME: (Estimate of average or projected monthly income at time case filed)	DEBTOR	SPOUSE
1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)	$ 0.00	$ 2,892.28
2. Estimate monthly overtime	$ 0.00	$ 0.00
3. SUBTOTAL	$ 0.00	$ 2,892.28
4. LESS PAYROLL DEDUCTIONS		
a. Payroll taxes and social security	$ 0.00	$ 238.33
b. Insurance	$ 0.00	$ 397.49
c. Union dues	$ 0.00	$ 0.00
d. Other (Specify): **401K Contributions**	$ 0.00	$ 57.59
	$ 0.00	$ 0.00
5. SUBTOTAL OF PAYROLL DEDUCTIONS	$ 0.00	$ 693.41
6. TOTAL NET MONTHLY TAKE HOME PAY	$ 0.00	$ 2,198.87
7. Regular income from operation of business or profession or farm (Attach detailed statement)	$ 0.00	$ 0.00
8. Income from real property	$ 0.00	$ 0.00
9. Interest and dividends	$ 0.00	$ 0.00
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above	$ 0.00	$ 0.00
11. Social security or government assistance		
(Specify): **Unemployment Compensation**	$ 1,499.33	$ 0.00
Food Stamps	$ 288.00	$ 0.00
12. Pension or retirement income	$ 0.00	$ 0.00
13. Other monthly income		
(Specify):	$ 0.00	$ 0.00
	$ 0.00	$ 0.00
14. SUBTOTAL OF LINES 7 THROUGH 13	$ 1,787.33	$ 0.00
15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)	$ 1,787.33	$ 2,198.87
16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)	$ 3,986.20	

(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:
-NONE-

In re **Melena Bullard McNeil** Case No. **10-80005**

Debtor(s)

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average or projected monthly expenses of the debtor and the debtor's family at time case filed. Prorate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate. The average monthly expenses calculated on this form may differ from the deductions from income allowed on Form 22A or 22C.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

1. Rent or home mortgage payment (include lot rented for mobile home)	$ 0.00
a. Are real estate taxes included? Yes ___ No **X**	
b. Is property insurance included? Yes ___ No **X**	
2. Utilities: a. Electricity and heating fuel	$ 287.50
b. Water and sewer	$ 10.00
c. Telephone	$ 62.00
d. Other **See Detailed Expense Attachment**	$ 318.70
3. Home maintenance (repairs and upkeep)	$ 60.00
4. Food	$ 600.00
5. Clothing	$ 16.00
6. Laundry and dry cleaning	$ 0.00
7. Medical and dental expenses	$ 60.00
8. Transportation (not including car payments)	$ 232.00
9. Recreation, clubs and entertainment, newspapers, magazines, etc.	$ 0.00
10. Charitable contributions	$ 0.00
11. Insurance (not deducted from wages or included in home mortgage payments)	
a. Homeowner's or renter's	$ 53.00
b. Life	$ 40.00
c. Health	$ 0.00
d. Auto	$ 129.00
e. Other	$ 0.00
12. Taxes (not deducted from wages or included in home mortgage payments) (Specify) **See Detailed Expense Attachment**	$ 75.00
13. Installment payments: (In chapter 11, 12, and 13 cases, do not list payments to be included in the plan)	
a. Auto	$ 0.00
b. Other	$ 0.00
c. Other	$ 0.00
14. Alimony, maintenance, and support paid to others	$ 0.00
15. Payments for support of additional dependents not living at your home	$ 0.00
16. Regular expenses from operation of business, profession, or farm (attach detailed statement)	$ 0.00
17. Other **Chapter 13 Plan Payment**	$ 2,043.00
Other	$ 0.00
18. AVERAGE MONTHLY EXPENSES (Total lines 1-17. Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)	$ 3,986.20

19. Describe any increase or decrease in expenditures reasonably anticipated to occur within the year following the filing of this document:

None

20. STATEMENT OF MONTHLY NET INCOME

a. Average monthly income from Line 15 of Schedule I	$ 3,986.20
b. Average monthly expenses from Line 18 above	$ 3,986.20
c. Monthly net income (a. minus b.)	$ 0.00

B6J (Official Form 6J) (12/07)

In re Melena Bullard McNeil — Debtor(s) — Case No. 10-80005

SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Detailed Expense Attachment

Other Utility Expenditures:

Cablevision	$	85.00
Internet	$	25.00
Cellular Phone	$	208.70
Total Other Utility Expenditures	$	318.70

Specific Tax Expenditures:

Personal Property Taxes	$	25.00
Real Property Taxes	$	50.00
Total Tax Expenditures	$	75.00